

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 97-26, page 4.

LIFO; price indexes; department stores. The April 1997 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, April 30, 1997.

T.D. 8717, page 5.

Final regulations under section 708 of the Code relate to the termination of a partnership upon the sale or exchange of 50 percent or more of the total interest in partnership capital and profits within a 12-month period.

EMPLOYEE PLANS

Rev. Proc. 97-29, page 9.

SIMPLE IRAs; prototypes; amendments. This procedure describes model amendments for SIMPLE IRAs; guidance to drafters of prototype SIMPLE IRAs on obtaining opinion letters; permissive amendments to

sponsors of nonSIMPLE IRAs; the opening of a prototype program for SIMPLE IRA Plans; and transitional relief for users of SIMPLE IRAs and SIMPLE IRA Plans that have not been approved by the Service.

EXEMPT ORGANIZATIONS

Announcement 97-58, page 13.

A list is given of organizations now classified as private foundations.

ADMINISTRATIVE

Announcement 97-59, page 13.

T.D. 8719, 1997-23 I.R.B. 4, relating to the procedure for requesting a change in accounting method and the standards for granting an extension of time to request a change in accounting method, is corrected.

Announcement 97-60, page 14.

Payors are permitted to include the telephone number in any conspicuous place on substitute Forms 1099, 1098, 5498, and W-2G.

Mission of the Service

The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least cost; serve the public by continually improving the

quality of our products and services; and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency and fairness.

Statement of Principles of Internal Revenue Tax Administration

The function of the Internal Revenue Service is to administer the Internal Revenue Code. Tax policy for raising revenue is determined by Congress.

With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various Code provisions in light of the Congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he or she is "protecting the revenue." The revenue is properly protected only when we ascertain and apply the true meaning of the statute.

The Service also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised by examining officers when they have merit, never arbitrarily or for trading purposes. At the same time, the examining officer should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position.

Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness. It should never try to overreach, and should be reasonable within the bounds of law and sound administration. It should, however, be vigorous in requiring compliance with law and it should be relentless in its attack on unreal tax devices and fraud.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents of a permanent nature are consolidated semi-annually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations,

court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

With the exception of the Notice of Proposed Rulemaking and the disbarment and suspension list included in this part, none of these announcements are consolidated in the Cumulative Bulletins.

The first Bulletin for each month includes an index for the matters published during the preceding month. These monthly indexes are cumulated on a quarterly and semiannual basis, and are published in the first Bulletin of the succeeding quarterly and semi-annual period, respectively.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

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Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 472.—Last-in, First-out Inventories

26 CFR 1.472-1: Last-in, first-out inventories.

LIFO; price indexes; department stores. The April 1997 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods of valuing inventories for tax years ended on, or with references to, April 30, 1997.

Rev. Rul. 97-26

The following Department Store Inventory Price Indexes for April 1997 were issued by the Bureau of Labor Statistics on May 15, 1997. The indexes are accepted by the Internal Revenue Service, under § 1.472-1(k) of the Income Tax Regulations and Rev. Proc. 86-46, 1986-2 C.B. 739, for appropriate application to inventories of department stores employing the retail inventory and last-in, first-out inventory methods

for tax years ended on, or with reference to, April 30, 1997.

The Department Store Inventory Price Indexes are prepared on a national basis and include (a) 23 major groups of departments, (b) three special combinations of the major groups - soft goods, durable goods, and miscellaneous goods, and (c) a store total, which covers all departments, including some not listed separately, except for the following: candy, foods, liquor, tobacco, and contract departments.

BUREAU OF LABOR STATISTICS, DEPARTMENT STORE INVENTORY PRICE INDEXES BY DEPARTMENT GROUPS (January 1941 = 100, unless otherwise noted)

Groups	Apr. 1996	Apr. 1997	Percent Change from Apr. 1996 to Apr. 1997 ¹
1. Piece Goods	528.6	533.0	0.8
2. Domestics and Draperies	655.0	653.6	-0.2
3. Women's and Children's Shoes	658.2	661.3	0.5
4. Men's Shoe	899.6	904.8	0.6
5. Infants' Wear	640.9	640.6	0.0
6. Women's Underwear	538.5	546.3	1.4
7. Women's Hosiery	285.7	294.4	3.0
8. Women's and Girls' Accessories	554.9	561.0	1.1
9. Women's Outerwear and Girls' Wear	430.9	439.8	2.1
10. Men's Clothing	625.7	622.2	-0.6
11. Men's Furnishings	590.3	598.9	1.5
12. Boys' Clothing and Furnishings	491.2	498.6	1.5
13. Jewelry	1036.3	1026.2	-1.0
14. Notions	785.1	799.2	1.8
15. Toilet Articles and Drugs	883.3	912.5	3.3
16. Furniture and Bedding	672.2	667.5	-0.7
17. Floor Coverings	571.1	586.9	2.8
18. Housewares	802.9	815.9	1.6
19. Major Appliances	246.8	241.9	-2.0
20. Radio and Television	79.6	76.6	-3.8
21. Recreation and Education ²	113.7	110.2	-3.1
22. Home Improvements ²	125.7	131.4	4.5
23. Auto Accessories ²	107.3	107.3	0.0
Groups 1 - 15: Soft Goods	608.2	614.6	1.1
Groups 16 - 20: Durable Goods	468.8	466.9	-0.4
Groups 21 - 23: Misc. Goods ²	114.1	112.4	-1.5
Store Total ³	560.1	562.6	0.4

¹Absence of a minus sign before percentage change in this column signifies price increase.

²Indexes on a January 1986=100 base.

³The store total index covers all departments, including some not listed separately, except for the following: candy, foods, liquor, tobacco, and contract departments.

DRAFTING INFORMATION

The principal author of this revenue ruling is Stan Michaels of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Mr. Michaels on (202) 622-4970 (not a toll-free call).

Section 708.—Continuation of Partnership

26 CFR 1.708-1: Continuation of partnership.

T.D. 8717

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 1 and 301

Termination of a Partnership Under Section 708(b)(1)(B)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the termination of a partnership upon the sale or exchange of 50 percent or more of the total interest in partnership capital and profits within a 12-month period. The final regulations affect all partnerships that terminate under section 708(b)(1)(B).

DATES: These regulations are effective May 9, 1997.

For applicability dates, see Effective Dates under Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Steven R. Schneider, (202) 622-3060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On May 13, 1996, a notice of proposed rulemaking (PS-5-96 [1996-1 C.B. 877]) was published in the **Federal Register** (61 FR 21985) containing proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 708 of the Internal Revenue Code (Code). The notice of proposed rulemaking also contained proposed amendments to other sections of the Income Tax Regulations to reflect the amendments to the regulations under section 708. Written comments responding to this notice were received. A public hearing was held on September 5, 1996, pursuant to the notice published in

the **Federal Register** on May 13, 1996. After consideration of all comments received, the proposed amendments are adopted as revised by this Treasury decision.

Explanation of Provisions

Section 708(b)(1)(B) provides that, for purposes of section 708(a), a partnership shall be considered terminated if within a 12-month period there is a sale or exchange of 50 percent or more of the total interest in partnership capital and profits. The existing regulations under § 1.708-1(b)(1)(iv) provide that, if a partnership is terminated by a sale or exchange of an interest, the following is deemed to occur: The partnership distributes its properties to the purchaser and the other remaining partners in proportion to their respective interests in the partnership properties; and, immediately thereafter, the purchaser and the other remaining partners contribute the properties to a new partnership, either for the continuation of the business or for its dissolution and winding up. The final regulations adopt the proposed regulations and change the mechanics of a termination under section 708(b)(1)(B) so that the following is deemed to occur on a termination: The partnership contributes all of its assets and liabilities to a new partnership in exchange for an interest in the new partnership; and, immediately thereafter, the partnership liquidates by distributing interests in the new partnership to the purchaser and the other remaining partners, followed by the continuation of the business by the new partnership or its dissolution and winding up. The final regulations also clarify certain aspects of the proposed regulations in response to comments received.

One commentator requested clarification of the section 704(c) consequences of a termination. The proposed regulations provide for a section 704(b) capital account “book up” upon the deemed contribution of assets by the terminated partnership to the new partnership and also upon the deemed distribution in liquidation of the terminated partnership. This would have resulted in a new layer of section 704(c) property. The final regulations amend the regulations under section 704(b) to provide that the deemed contribution of assets to a new partnership and the distribution of the new partnership interests to the partners of the terminated partnership are disregarded for purposes of maintaining capi-

tal accounts. As a result, the termination of a partnership does not change the capital accounts of the partners or the books of the partnership and the deemed contribution of assets to a new partnership does not create additional section 704(c) property. The final regulations also provide that the new partnership is not bound by the section 704(c) method used by the terminated partnership.

A commentator requested clarification of whether a termination under the new section 708(b)(1)(B) construct will trigger recapture of investment tax credit under section 47. Although not specifically addressed in the regulations, a section 708(b)(1)(B) termination no longer triggers recapture of the investment tax credit under the “mere change in form” exception in § 1.47-3(f) of the regulations.

Commentators also requested guidance on whether a section 1491 excise tax may be triggered upon a section 708(b)(1)(B) termination of a foreign partnership with U.S. partners. This issue is currently under study and the IRS and Treasury welcome comments from interested taxpayers and practitioners.

One commentator requested clarification of whether the distribution of the interests in the new partnership will be subject to section 731(c). The section 731(c) final regulations, December 26, 1996 (61 FR 67936), provide that the deemed distribution of partnership interests under § 1.708-1(b)(1)(iv) does not trigger the application of section 731(c).

Several commentators suggested that partnerships should be allowed to apply the final regulations to terminations under section 708(b)(1)(B) occurring on or after the date the proposed regulations were filed with the Federal Register. In response, the final regulations provide that the regulations may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply the regulations to the termination in a consistent manner.

The final regulations also provide an example illustrating the mechanics of a termination under section 708(b)(1)(B). In addition, the final regulations provide that the new partnership retains the TIN of the terminated partnership. However, if the new partnership has already applied for a new TIN, the partnership should continue to use the new TIN.

Finally, the regulations make several revenue rulings obsolete. The holdings of revenue rulings 87-50 and 87-51 (dealing with the effect of terminations under section 708(b)(1)(B) on lower-tier

partnerships) and revenue rulings 86-73 and 88-42 (dealing with the effect of a § 754 election made by the terminating partnership) are now incorporated, without substantive change, into the regulations under § 1.708-1. Additionally, the final regulations make revenue ruling 93-90 (dealing with minimum gain chargeback in a section 708(b)(1)(B) termination) obsolete because the § 704(b) capital account "book up" that is the subject of the revenue ruling is eliminated.

Effective Date

These regulations apply to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, these regulations may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply these regulations to the termination in a consistent manner.

Effect on Other Documents

The following publications are obsolete as of May 9, 1997:

- Rev. Rul. 86-73, 1986-1 C.B. 282
- Rev. Rul. 87-50, 1987-1 C.B. 157
- Rev. Rul. 87-51, 1987-1 C.B. 158
- Rev. Rul. 88-42, 1988-1 C.B. 265
- Rev. Rul. 93-90, 1993-2 C.B. 238

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Steven R. Schneider of the Office of Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.704-1 is amended as follows:

1. Paragraph (b)(2)(iv)(d)(1) is amended by revising the second sentence.

2. Paragraph (b)(2)(iv)(l) is amended removing the last three sentences and adding four sentences in their place.

3. Paragraph (b)(5) *Example 13(v)* is amended by removing all text following the third sentence and adding four sentences in its place.

The revisions and additions read as follows:

§ 1.704-1 Partner's distributive share.

* * * * *

(b) * * *

(2) * * *

(iv) * * *

(d) * * *

(1) * * * See *Example 13(i)* of paragraph (b)(5) of this section. * * *

* * * * *

(l) * * * If the transfer of an interest in a partnership causes a termination of the partnership under section 708(b)(1)(B), the capital account of the transferee partner and the capital accounts of the other partners of the terminated partnership carry over to the new partnership that is formed as a result of the termination of the partnership under § 1.708-1(b)(1)(iv). Moreover, the deemed contribution of assets and liabilities by the terminated partnership to a new partnership and the deemed liquidation of the terminated partnership that occur under § 1.708-1(b)(1)(iv) are disregarded for purposes of paragraph (b)(2)(iv) of this section. See *Example 13* of paragraph (b)(5) of this section and the example in § 1.708-1(b)(1)(iv). The previous three sentences apply to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, the sentences may be applied to terminations occurring on or after May 9, 1996, provided that the partnership

and its partners apply the sentences to the termination in a consistent manner.

* * * * *

(5) * * *

Example 13. * * *

(v) * * * Immediately preceding the constructive liquidation, the capital accounts of Z and LK equal \$11,000 each (LK having inherited Y's \$11,000 capital account) and the book value of the G Corp. securities is \$22,000 (original purchase price of securities). Under paragraph (b)(2)(iv)(l) of this section, the deemed contribution of assets and liabilities by the terminated partnership to the new partnership and the deemed liquidation of the terminated partnership that occur under § 1.708-1(b)(1)(iv) in connection with the constructive liquidation of the terminated partnership are disregarded in the maintenance and computation of the partners' capital accounts. As a result, the capital accounts of Z and LK in the new partnership equal \$11,000 each (their capital accounts in the terminated partnership immediately prior to the termination), and the book value of the G Corp. securities remains \$22,000 (its book value immediately prior to the termination). This *Example 13(v)* applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, this *Example 13(v)* may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply this *Example 13(v)* to the termination in a consistent manner.

* * * * *

Par. 3. Section 1.704-3 is amended as follows:

1. Paragraph (a)(2) is amended by adding two sentences at the end of the paragraph.

2. Paragraph (a)(3)(i) is amended by adding three sentences at the end of the paragraph.

The additions read as follows:

§ 1.704-3 Contributed property.

(a) * * *

(2) * * * A new partnership formed as the result of the termination of a partnership under section 708(b)(1)(B) is not required to use the same method as the terminated partnership with respect to section 704(c) property deemed contributed to the new partnership by the terminated partnership under § 1.708-1(b)(1)(iv). The previous sentence applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, the sentence may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply the sentence to the termination in a consistent manner.

(3) * * *

(i) * * * Property deemed contributed to a new partnership as the result of the termination of a partnership under section 708(b)(1)(B) is treated as section 704(c) property in the hands of the new

partnership only to the extent that the property was section 704(c) property in the hands of the terminated partnership immediately prior to the termination. See § 1.708-1(b)(1)(iv) for an example of the application of this rule. The previous two sentences apply to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, the sentences may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply the sentences to the termination in a consistent manner.

Par. 4. Section 1.704-4 is amended by revising paragraphs (a)(4)(ii) and (c)(3) to read as follows:

§ 1.704-4 Distribution of contributed property.

- (a) * * *
- (4) * * *

(ii) *Section 708(b)(1)(B) terminations.* A termination of the partnership under section 708(b)(1)(B) does not begin a new five-year period for each partner with respect to the built-in gain and built-in loss property that the terminated partnership is deemed to contribute to the new partnership under § 1.708-1(b)(1)(iv). See § 1.704-3(a)(3)(ii) for the definitions of built-in gain and built-in loss on section 704(c) property. This paragraph (a)(4)(ii) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, this paragraph (a)(4)(ii) may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply this paragraph (a)(4)(ii) to the termination in a consistent manner.

- (c) * * *

(3) *Section 708(b)(1)(B) terminations.* Section 704(c)(1)(B) and this section do not apply to the deemed distribution of interests in a new partnership caused by the termination of a partnership under section 708(b)(1)(B). A subsequent distribution of section 704(c) property by the new partnership to a partner of the new partnership is subject to section 704(c)(1)(B) to the same extent that a distribution by the terminated partnership would have been subject to section 704(c)(1)(B). See also § 1.737-2(a) for a similar rule in the context of section 737. This paragraph (c)(3) applies to terminations of partnerships under sec-

tion 708(b)(1)(B) occurring on or after May 9, 1997; however, this paragraph (c)(3) may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply this paragraph (c)(3) to the termination in a consistent manner.

Par. 5. Section 1.708-1 is amended as follows:

- 1. Paragraph (b)(1)(ii) is amended by adding three sentences after the third sentence.
- 2. Paragraph (b)(1)(iv) is revised.
- 3. Paragraph (b)(1)(v) is added.

The additions and revisions read as follows:

§ 1.708-1 Continuation of partnership.

- (b) * * *
- (1) * * *
- (ii) * * * Moreover, if the sale or exchange of an interest in a partnership (upper-tier partnership) that holds an interest in another partnership (lower-tier partnership) results in a termination of the upper-tier partnership, the upper-tier partnership is treated as exchanging its entire interest in the capital and profits of the lower-tier partnership. If the sale or exchange of an interest in an upper-tier partnership does not terminate the upper-tier partnership, the sale or exchange of an interest in the upper-tier partnership is not treated as a sale or exchange of a proportionate share of the upper-tier partnership's interest in the capital and profits of the lower-tier partnership. The previous two sentences apply to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, the sentences may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply the sentences to the termination in a consistent manner. * * *

(iv) If a partnership is terminated by a sale or exchange of an interest, the following is deemed to occur: The partnership contributes all of its assets and liabilities to a new partnership in exchange for an interest in the new partnership; and, immediately thereafter, the terminated partnership distributes interests in the new partnership to the purchasing partner and the other remaining partners in proportion to their respective interests in the terminated partnership in liquidation of the terminated partnership, either for the continuation of the business by the new partnership or for its

dissolution and winding up. In the latter case, the new partnership terminates in accordance with (b)(1)(i) of this section. This paragraph (b)(1)(iv) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, this paragraph (b)(1)(iv) may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply this paragraph (b)(1)(iv) to the termination in a consistent manner. The provisions of this paragraph (b)(1)(iv) are illustrated by the following example:

Example. (i) A and B each contribute \$10,000 cash to form AB, a general partnership, as equal partners. AB purchases depreciable Property X for \$20,000. Property X increases in value to \$30,000, at which time A sells its entire 50 percent interest to C for \$15,000 in a transfer that terminates the partnership under section 708(b)(1)(B). At the time of the sale, Property X had an adjusted tax basis of \$16,000 and a book value of \$16,000 (original \$20,000 tax basis and book value reduced by \$4,000 of depreciation). In addition, A and B each had a capital account balance of \$8,000 (original \$10,000 capital account reduced by \$2,000 of depreciation allocations with respect to Property X).

(ii) Following the deemed contribution of assets and liabilities by the terminated AB partnership to a new partnership (new AB) and the liquidation of the terminated AB partnership, the adjusted tax basis of Property X in the hands of new AB is \$16,000. See Section 723. The book value of Property X in the hands of new partnership AB is also \$16,000 (the book value of Property X immediately before the termination) and B and C each have a capital account of \$8,000 in new AB (the balance of their capital accounts in AB prior to the termination). See § 1.704-1(b)(2)(iv)(l) (providing that the deemed contribution and liquidation with regard to the terminated partnership are disregarded in determining the capital accounts of the partners and the books of the new partnership). Additionally, under § 301.6109-1(d)(2)(iii) of this chapter, new AB retains the taxpayer identification number of the terminated AB partnership.

(iii) Property X was not section 704(c) property in the hands of terminated AB and is therefore not treated as section 704(c) property in the hands of new AB, even though Property X is deemed contributed to new AB at a time when the fair market value of Property X (\$30,000) was different from its adjusted tax basis (\$16,000). See § 1.704-3(a)(3)(i) (providing that property contributed to a new partnership under § 1.708-1(b)(1)(iv) is treated as section 704(c) property only to the extent that the property was section 704(c) property in the hands of the terminated partnership immediately prior to the termination).

(v) If a partnership is terminated by a sale or exchange of an interest in the partnership, a section 754 election (including a section 754 election made by the terminated partnership on its final return) that is in effect for the taxable year of the terminated partnership in which the sale occurs, applies with respect to the incoming partner. There-

fore, the bases of partnership assets are adjusted pursuant to sections 743 and 755 prior to their deemed contribution to the new partnership. This paragraph (b)(1)(v) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, this paragraph (b)(1)(v) may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply this paragraph (b)(1)(v) to the termination in a consistent manner.

* * * * *

Par. 6. Section 1.737-2 is amended as follows:

1. Paragraph (a) is revised.

2. In paragraph (d)(1), the first sentence is revised and one sentence is added after the first sentence.

The additions and revisions read as follows:

§ 1.737-2 *Exceptions and special rules.*

(a) *Section 708(b)(1)(B) terminations.* Section 737 and this section do not apply to the deemed distribution of interests in a new partnership caused by the termination of a partnership under section 708(b)(1)(B). A subsequent distribution of property by the new partnership to a partner of the new partnership that was formerly a partner of the terminated partnership is subject to section 737 to the same extent that a distribution from the terminated partnership would have been subject to section 737. See also § 1.704-4(c)(3) for a similar rule in the context of section 704(c)(1)(B). This paragraph (a) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, this paragraph (a) may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply this paragraph (a) to the termination in a consistent manner.

* * * * *

(d) * * * (1) * * * Any portion of the distributed property that consists of property previously contributed by the

distributee partner (previously contributed property) is not taken into account in determining the amount of the excess distribution or the partner's net precontribution gain. The previous sentence applies on or after May 9, 1997.

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Par. 7. In section 1.743-1, paragraph (d) is added to read as follows:

§ 1.743-1 *Optional adjustment to basis of partnership property.*

* * * * *

(d) *Section 708(b)(1)(B) terminations.* A partner with a special basis adjustment in property held by a partnership that terminates under section 708(b)(1)(B) will continue to have the same special basis adjustment with respect to property deemed contributed by the terminated partnership to the new partnership under § 1.708-1(b)(1)(iv), regardless of whether the new partnership makes a section 754 election. This paragraph (d) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, this paragraph (d) may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply this paragraph (d) to the termination in a consistent manner.

Par. 8. In § 1.761-1, paragraph (e) is added to read as follows:

§ 1.761-1 *Terms defined.*

* * * * *

(e) *Distribution of partnership interest.* For purposes of section 708(b)(1)(B) and § 1.708-1(b)(1)(iv), the deemed distribution of an interest in a new partnership by a partnership that terminates under section 708(b)(1)(B) is not a sale or exchange of an interest in the new partnership. However, the deemed distribution of an interest in a new partnership by a partnership that terminates under section 708(b)(1)(B) is treated as an exchange of the interest in the new partnership for purposes of

section 743. This paragraph (e) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, this paragraph (e) may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply this paragraph (e) to the termination in a consistent manner.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 9. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 10. Section 301.6109-1 is amended by adding paragraph (d)(2)(iii) as follows:

§ 301.6109-1 *Identifying numbers.*

* * * * *

(d) * * *

(2) * * *

(iii) *Special rule for Section 708(b)(1)(B) terminations.* A new partnership that is formed as a result of the termination of a partnership under section 708(b)(1)(B) will retain the employer identification number of the terminated partnership. This paragraph (d)(2)(iii) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after May 9, 1997; however, this paragraph (d)(2)(iii) may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply this paragraph (d)(2)(iii) to the termination in a consistent manner.

* * * * *

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved May 1, 1997.

Donald C. Lubick,
*Acting, Assistant Secretary of the
Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on May 8, 1997, 8:45 a.m., and published in the issue of the Federal Register for May 9, 1997, 62 F.R. 25498)

Part III. Administrative, Procedural, and Miscellaneous

26 CFR 601.201: Rulings and determination letters.

Rev. Proc. 97-29

SECTION 1. PURPOSE

This revenue procedure (1) provides a model amendment that may be used, prior to January 1, 1999, by a sponsor of a prototype individual retirement account or annuity (IRA) to establish a SIMPLE IRA (an IRA designed to accept contributions under a SIMPLE IRA Plan described in § 408(p) of the Internal Revenue Code; (2) provides guidance on obtaining opinion letters to drafters of prototype SIMPLE IRAs; (3) provides permissive amendments to sponsors of nonSIMPLE IRAs (IRAs that are designed to accept contributions other than under SIMPLE IRA Plans); (4) announces the opening of a program for prototype SIMPLE IRA Plans; and (5) provides transitional relief for users of SIMPLE IRAs and SIMPLE IRA Plans that have not been approved by the Internal Revenue Service.

SECTION 2. BACKGROUND AND GENERAL INFORMATION

.01 Code § 408(p), added by § 1421(a) of the Small Business Job Protection Act of 1996 (“SBJPA”), Pub. L. No. 104-188, describes a new type of retirement arrangement, a SIMPLE IRA Plan, which, generally, may be used by small employers who maintain no other qualified plans. Under a SIMPLE IRA Plan, an employer makes contributions to a SIMPLE IRA.

.02 Subsections (a) and (b) of § 408 set forth general requirements for individual retirement accounts and individual retirement annuities, respectively.

.03 Rev. Proc. 87-50, 1987-2 C.B. 647, provides the procedures for a sponsoring organization or a mass submitter (a “prototype sponsor”) to apply to the Service for an opinion letter on whether a prototype nonSIMPLE IRA meets the requirements of § 408(a) or (b).

.04 Section 408(p)(1) requires that a SIMPLE IRA established for use with a particular employer’s SIMPLE IRA Plan only accept contributions from that employer pursuant to its SIMPLE IRA Plan or from another employer pursuant to that employer’s SIMPLE IRA Plan. However, a SIMPLE IRA established by or for a particular employee may also accept that employee’s rollovers or

transfers of property from another SIMPLE IRA of that employee.

.05 In 1996, the Service released Forms 5305-S and 5305-SA, model SIMPLE IRAs for use as trust or custodial accounts, respectively. A prototype sponsor that wants to offer Service-approved SIMPLE IRAs may (1) use one or both of these model SIMPLE IRAs, (2) use the model amendment procedure contained in section 3, or (3) apply for an opinion letter pursuant to section 4.

.06 In 1996, the Service also released two model SIMPLE IRA Plans, Form 5305-SIMPLE (Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—for Use With a Designated Financial Institution) and Form 5304-SIMPLE (Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)—Not Subject to the Designated Financial Institution Rules).

.07 Notice 97-6, 1997-2 I.R.B. 26 (January 13, 1997), contains questions and answers relating to the implementation and operation of SIMPLE IRA Plans described in § 408(p), including the election and notice requirements regarding these plans. The Service intends to supplement Notice 97-6 with additional guidance.

.08 Rev. Proc. 97-8, 1997-1 I.R.B. 187 (January 6, 1997), provides guidance to taxpayers for complying with the user-fee program as it pertains to matters under the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations).

SECTION 3. ADOPTION OF MODEL AMENDMENT

.01 Procedural requirements. A prototype sponsor with an approved prototype nonSIMPLE IRA may create an approved prototype SIMPLE IRA using the model amendment procedure in this section 3 by complying with section 3.02 and .03 below. Following the model amendment procedure results in two approved prototype IRAs: (1) an existing unchanged prototype nonSIMPLE IRA and (2) a newly established prototype SIMPLE IRA.

.02 Use of model language. In order to create an approved prototype SIMPLE IRA using the model amendment, the prototype sponsor must use an Eligible IRA as a basis and follow the instructions in the Appendix. An “Eli-

gible IRA” is a prototype nonSIMPLE IRA that either (1) has a favorable opinion letter dated after January 31, 1990, or (2) has a favorable opinion letter dated on or before that date and has adopted the minimum distribution language contained in section 6 of Rev. Proc. 92-38, 1992-1 C.B. 859. The model language must be adopted on a word-for-word basis unless otherwise specified in the Appendix.

.03 *Application to the Service.*

(1) *Opinion letter request.* A prototype sponsor must request an opinion letter from the Service on the SIMPLE IRA in order to establish a prototype SIMPLE IRA using an Eligible IRA. The Service will not accept an opinion letter request submitted pursuant to this section 3 by a prototype sponsor after December 31, 1998.

(2) *Information required.* The prototype sponsor must apply for the opinion letter using Form 5306, Application for Approval of Prototype or Employer Sponsored Individual Retirement Account, with “SIMPLE IRA model amendment” written on the top of the form and the file folder number of the Eligible IRA written on line 2c(3). The prototype sponsor should not complete Part II of the form and should not submit either the Eligible IRA or the SIMPLE IRA to the Service pursuant to this model amendment procedure.

(3) *Certification.* The prototype sponsor must certify that the model language contained in the Appendix has been added on a word-for-word basis to an Eligible IRA (as defined in section 3.02) and that no other changes have been made.

(4) *Address.* The prototype sponsor must mail the application to: Internal Revenue Service, Attention CP:E:EP, P.O. Box 14073, Ben Franklin Station, Washington, DC 20044.

(5) *Mass submitters.* Mass submitters must provide the information and certification described in section 3.03(2) and (3), above, on behalf of each sponsoring organization that is an identical adopter of the mass submitter and that wishes to use this model amendment procedure to establish a SIMPLE IRA.

(6) *User fee.* The prototype sponsor must pay a user fee of \$50 for each prototype SIMPLE IRA established pursuant to this section 3. This fee can be paid by money order or check only and must accompany each application. The

money order or check must be made payable to the Internal Revenue Service.

.04 *New opinion letter.* After verifying the information provided by the applicant on each Eligible IRA, the Service will issue a new opinion letter on each prototype SIMPLE IRA to the prototype sponsor.

.05 *Reliance.* An individual who uses a SIMPLE IRA that has received an opinion letter pursuant to section 3.04 and who complies with the terms of the SIMPLE IRA may rely upon the opinion letter that the SIMPLE IRA is qualified under § 408(p). However, the opinion letter may not be relied on with respect to whether the SIMPLE IRA Plan, under which contributions are made to the SIMPLE IRA, satisfies the requirements of § 408(p).

.06 *Disclosure statements.* A prototype sponsor that amends an Eligible IRA pursuant to this section 3 must change the corresponding disclosure statement, required pursuant to § 408(i), to reflect the contents of the SIMPLE IRA. The prototype sponsor must distribute the amended disclosure statement to each individual using the SIMPLE IRA.

SECTION 4. OPINION LETTERS FOR NONMODEL SIMPLE IRAS

.01 *Prototype program.* A prototype sponsor may apply to the Service for an opinion letter on a SIMPLE IRA submitted pursuant to this section 4. The same procedures and user fees apply to a submission for an opinion letter for a SIMPLE IRA as those that apply for a nonSIMPLE IRA, with the exception described in section 4.02. (See Rev. Procs. 87–50 and 97–8.)

.02 *No opinion letters.* The Service will not issue an opinion letter to a prototype sponsor on a SIMPLE IRA that, by its terms, can be used either as a SIMPLE IRA or a nonSIMPLE IRA.

.03 *Sample language.* Sample language (also known as Listing of Required Modifications, or LRMs) that the Service finds acceptable for SIMPLE IRAs and nonSIMPLE IRAs may be obtained by writing to the Service at: Internal Revenue Service, 1111 Constitution Avenue NW, Attention CP:E:EP, Room 6550, Washington, DC 20224. “LRM Request” should be clearly printed on the envelope. Alternatively, a request for LRMs may be faxed to Nancy Arrington at (202) 622–6199.

SECTION 5. PERMISSIVE AMENDMENTS FOR NONSIMPLE IRAS

.01 *Amendment for all nonSIMPLE IRAs.*

(1) *Background.* An employer’s contribution under a SIMPLE IRA Plan must be deposited into an employee’s SIMPLE IRA. A SIMPLE IRA Plan contribution deposited into a nonSIMPLE IRA could result in adverse tax consequences to the employee. Similar adverse tax consequences could occur if, prior to the expiration of the 2-year period beginning on the date an employee first participated in any SIMPLE IRA Plan maintained by the employee’s employer, the employee rolls over or transfers to a nonSIMPLE IRA funds from the employee’s SIMPLE IRA.

(2) *Permissive amendment.* A prototype nonSIMPLE IRA may be amended by the prototype sponsor to prohibit the deposits described in section 5.01(1) that could result in adverse tax consequences to an employee. Prototype sponsors and individuals who use this amended nonSIMPLE IRA do not lose reliance on a current opinion letter because of this amendment. Therefore, a prototype sponsor that amends its nonSIMPLE IRA as suggested in this paragraph should not submit the amended nonSIMPLE IRA to the Service for a new opinion letter.

.02 *Amendment for spousal nonSIMPLE IRAs.*

(1) *Background.* Section 1427(a) of the SBJPA amended § 219(c) to increase from \$250 to \$2,000 the maximum deductible amount that can be contributed to nonSIMPLE IRAs established for certain married individuals. This increase applies to an individual’s taxable years that begin after December 31, 1996.

(2) *Permissive amendment.* Section 6.03 of Rev. Proc. 87–50 states that an amendment to an approved IRA solely to facilitate IRA contributions up to the maximum amount deductible under § 219 will not affect the status of the IRA and should not be submitted to the Service. Accordingly, a prototype sponsor that amends a nonSIMPLE IRA solely to reflect the increase in the deductible limit for spousal nonSIMPLE IRAs does not lose reliance on its current favorable opinion letter and should not submit the document to the Service for an opinion letter on the amendment.

.03 *Disclosure statements.* A proto-

type sponsor that amends its nonSIMPLE IRA as suggested in sections 5.01(2) or 5.02(2) must change the corresponding disclosure statement, required pursuant to § 408(i), to reflect the amendment(s) to the nonSIMPLE IRA. The prototype sponsor must distribute the amended disclosure statement to individuals using the amended nonSIMPLE IRA.

SECTION 6. PROTOTYPE SIMPLE IRA PLAN PROGRAM

.01 *New prototype program.* The Service will issue an opinion letter on the form of a prototype SIMPLE IRA Plan submitted by a sponsoring organization or mass submitter (as these terms are defined in Rev. Proc. 87–50) provided that the requirements of § 408(p) and this section 6 are satisfied.

.02 *User fees.* The user fees and address for a SIMPLE IRA Plan prototype submission are the same as for a prototype simplified employee pension (SEP) submission, as listed in Rev. Proc. 97–8.

.03 *Sample language.* Sample language that the Service finds acceptable for use in a SIMPLE IRA Plan may be obtained by writing to the address indicated in section 4.03.

.04 *Application form.* The Service anticipates that an application form will be developed to accommodate a request for an opinion letter on a SIMPLE IRA Plan. Until a new form is available, applicants must use Form 5306–SEP, Application for Approval of Prototype Simplified Employee Pension—SEP, writing “SIMPLE IRA Plan Request” on top of the form and answering all questions except 3, 7 and 8 (relating to items unique to SEPs).

.05 *No opinion letters.* The Service will not issue an opinion letter to a prototype sponsor for a SIMPLE IRA Plan that combines a SIMPLE IRA Plan and a SIMPLE IRA in the same document.

SECTION 7. TRANSITIONAL RELIEF

.01 *SIMPLE IRAs.* A SIMPLE IRA must be established for an employee prior to the first date a SIMPLE IRA Plan contribution is required to be deposited into the employee’s SIMPLE IRA. An employee or employer who establishes a trust, custodial account or annuity contract as a SIMPLE IRA in 1997 using a document that has not been approved for use as a SIMPLE IRA by the Service is deemed to have used a document that has been approved

for this use by the Service provided the conditions in (1) through (4) below are satisfied:

(1) The employee or employer used a document provided by a prototype sponsor to establish the "SIMPLE IRA."

(2) On or before December 31, 1997, the prototype sponsor applies to the Service for an opinion letter on the document described in section 7.01(1). The prototype sponsor must apply for the opinion letter using the procedures contained in either section 3 or section 4 of this revenue procedure.

(3) The employee or employer adopts the approved document within 120 days after the later of: (a) the date the Service issues a favorable opinion letter on the document to the prototype sponsor, and (b) if the prototype sponsor seeks approval of the document from one or more state insurance departments not later than 90 days after the Service issues a favorable opinion letter on the document, the date the document is approved by all such state insurance departments. If, as a result of amendments to the document required by a state insurance department, the prototype sponsor applies to the Service for an opinion letter on the amended document within 90 days after it is approved by such state insurance department, the date in (a) in the preceding sentence is the date the Service issues a favorable opinion letter on the amended document.

(4) The employer making contributions to the SIMPLE IRA, the employee on whose behalf contributions are made, and the trustee, custodian or issuer of the SIMPLE IRA comply in operation with § 408(p) for the period beginning on the date the first SIMPLE IRA Plan contribution was deposited into a trust, custodial account or annuity contract established under the original document through the date the employee or employer adopts the approved document.

.02 *SIMPLE IRA Plans.* An employer must establish a SIMPLE IRA Plan using a document that meets the requirements of § 408(p). An employer who establishes a plan as a SIMPLE IRA Plan in 1997 using a document that has not been approved for use as a SIMPLE IRA Plan by the Service is deemed to have established a SIMPLE IRA Plan using a document that has been approved for this use by the Service provided the conditions in (1) through (4) below are satisfied:

(1) The employer used a document provided by a prototype sponsor to establish the "SIMPLE IRA Plan."

(2) On or before December 31, 1997, the prototype sponsor applies to the Service for an opinion letter on the document described in section 7.02(1). The prototype sponsor must apply for the opinion letter using the procedures contained in section 6 of this revenue procedure.

(3) Within 120 days after the Service issues a favorable opinion letter on the document to the prototype sponsor, the employer adopts the approved document.

(4) The employer making contributions under the SIMPLE IRA Plan, the employees on whose behalf contributions are made, and the trustees, custodians or issuers of the SIMPLE IRAs established for use with the SIMPLE IRA Plan comply in operation with § 408(p) for the period beginning on the date the document was first used by the employer as a SIMPLE IRA Plan and through the date the employer adopts the approved document.

SECTION 8. EFFECT ON OTHER DOCUMENTS

Section 6.06 of Rev. Proc. 97-8 is modified by sections 3.03(6) and 6.02 of this revenue procedure, and section 6.02 of Rev. Proc. 87-50 is modified by sections 3 and 4.02 of this revenue procedure.

SECTION 9. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545-1543.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information in this revenue procedure are in sections 3.03(2), 3.03(3), 3.03(5), 4.01, 4.03, 6.01 and 6.03. This information is required to ascertain whether the request meets the requirements of § 408(p) so that an opinion letter can be issued to the applicant. The likely respondents are (1) businesses or other for-profit institutions and (2) not-for-profit institutions.

The estimated total annual reporting burden is 25,870 hours.

The estimated annual burden per respondent varies from 0.5 hours to 16 hours, depending on individual circumstances, with an estimated average of 8.07 hours. The estimated number of respondents is 3,205.

The estimated annual frequency of responses is three requests per applicant. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, an application for an opinion letter for a prototype plan is treated as an application for a determination letter and is subject to the disclosure rules of § 6104.

DRAFTING INFORMATION

The principal author of this revenue procedure is Roger Kuehnle of the Employee Plans Division. For further information regarding this revenue procedure, please contact the Employee Plans Division's taxpayer assistance telephone service at (202) 622-6074/75 (not toll-free numbers) between 1:30 and 3:30 p.m., Eastern Time, Monday through Thursday.

APPENDIX

Model Language

1. To establish a SIMPLE IRA using an Eligible IRA and the model amendment described in section 3, a prototype sponsor must follow the procedures in that section and the instructions below. A prototype sponsor that replaces one or more of the words "contribution," "participant" and "trustee" in the model language, as authorized by sections 3, 4, 5, and 6 in this appendix, is considered to have adopted the model language on a word-for-word basis.

2. The document must be identified as a SIMPLE IRA.

3. The prototype sponsor must delete the applicable sections in the Eligible IRA document dealing with acceptable contributions (from any source) and add the following (if different terms are used in the Eligible IRA document, the words "contribution" and "participant" must be replaced by the other terms used in lieu of these terms):

This SIMPLE IRA will accept only cash contributions made on behalf of the participant pursuant to the terms of a SIMPLE IRA Plan described in section 408(p) of

the Internal Revenue Code. [The following sentence is optional on the part of the prototype sponsor: “A rollover contribution or a transfer of assets from another SIMPLE IRA of the participant will also be accepted.”] No other contributions will be accepted.

4. The prototype sponsor must add the following paragraph to the Eligible IRA document (if different terms are used in the Eligible IRA document, the words “contribution,” “participant” and “trustee” must be replaced by the other terms used in lieu of these terms):

If contributions made on behalf of the participant pursuant to a SIMPLE IRA Plan maintained by the participant’s employer are received directly by the trustee from the employer, the trustee will provide the employer with the summary description required by section 408(l)(2) of the Internal Revenue Code.

5. If the document is to be used with respect to a SIMPLE IRA by a trustee, custodian or issuer that is a designated financial institution within the meaning of § 408(p)(7), the prototype sponsor

must add the following paragraph to the Eligible IRA document (if different terms are used in the Eligible IRA document, the words “contribution” and “participant” must be replaced by the other terms used in lieu of these terms):

If this SIMPLE IRA is maintained by a designated financial institution (within the meaning of section 408(p)(7) of the Internal Revenue Code) under the terms of a SIMPLE IRA Plan of the participant’s employer, the participant must be permitted to transfer the participant’s balance without cost or penalty (within the meaning of section 408(p)(7)) to another IRA.

(For further information concerning the obligations of a designated financial institution, see Q&As J-1 through J-5 in Notice 97-6. Note that if a trustee, custodian or issuer with respect to a SIMPLE IRA is not a designated financial institution, the employer must permit the participant to select the financial institution to which the employer will make contributions. (See Q&A E-4 in Notice 97-6.))

6. The prototype sponsor must add the following paragraph to the Eligible

IRA document (if different terms are used in the Eligible IRA document, the words “contribution” and “participant” must be replaced by the other terms used in lieu of these terms):

Prior to the expiration of the 2-year period beginning on the date the participant first participated in any SIMPLE IRA Plan maintained by the participant’s employer, any rollover or transfer by the participant of funds from this SIMPLE IRA must be made to another SIMPLE IRA of the participant. Any distribution of funds to the participant during this 2-year period may be subject to a 25-percent additional tax if the participant does not roll over the amount distributed into a SIMPLE IRA. After the expiration of this 2-year period, the participant may roll over or transfer funds to any IRA of the participant that is qualified under section 408(a) or (b) of the Internal Revenue Code.

7. The prototype sponsor must delete any definition of compensation contained in the Eligible IRA document.

Part IV. Items of General Interest

Foundations Status of Certain Organizations

Announcement 97-58

The following organizations have failed to establish or have been unable to maintain their status as public charities or as operating foundations. Accordingly, grantors and contributors may not, after this date, rely on previous rulings or designations in the Cumulative List of Organizations (Publication 78), or on the presumption arising from the filing of notices under section 508(b) of the Code. This listing does *not* indicate that the organizations have lost their status as organizations described in section 501(c)(3), eligible to receive deductible contributions.

Former Public Charities. The following organizations (which have been treated as organizations that are not private foundations described in section 509(a) of the Code) are now classified as private foundations:

Aberdeen Area Tribal Chairmans Health Board, Aberdeen, SD
America's Child, Cranston, RI
Andhra Adventists Association, Hyattsville, MD
Association of Black Automotive Employees Inc., Detroit, MI
Associates of Chicago Urban Day School, Chicago, IL
Athletic Booster Club of Malibu High School, Malibu, CA
Attorney Access, Inc., Buffalo, NY
Baldwin Parents in Partnership for School Age Child Care, Baldwin, NY
Cat Tails, Inc., Lebanon, MO
Christian Oasis Inc., Pineville, LA
Christian Renewal Inc., Bozeman, MT
Christian Works Incorporated, Mission Hills, CA
Church of Jesus Christ the Divine, Lebanon, IL
Ciudad De Los Ninos Orphans Outreach, Seattle, WA
Clubhouse A Childrens Museum, Tarzana, CA
College Park Community Watch, Raleigh, NC
Community Alliance Rehabilitation Services, Omaha, NE
Colorado Animal Refuge Inc., Calhan, CO
Contemplative Medical Center, Incorporated, Bethlehem, CT
Design News Engineering Education Foundation, Newton, MA

Ella Mae Smith Foundation, Chicago, IL
Environomic Research Institute Inc., Miami, FL
Evelyn Pacheco Scholarship Fund Inc., Raynham, MA
Family Defense Law Project, Inc., New York, NY
Farms for Life Corporation, Amherst, VA
Fortress Health Care Systems, Inc., Clinton, MD
Friends of Rachel Carson National Wildlife Refuge, Saco, ME
Future Considerations USA, Falmouth, ME
Gaylord Area Junior Golf Association Inc., Gaylord, MI
Goodridge Enterprise Center Inc., York, PA
Human Services Inc., Jackson Heights, NY
Infinite Sun Recycling, Kansas City, MO
Jera Foundation, Minneapolis, MN
Joy Kare Inc., Central Islip, NY
Little Italy Lodge OSIA 2286 Foundation Inc., Baltimore, MD
Long Bridge Ordinary Foundation, Bena, VA
Los Angeles Police Equestrian Fund, Los Angeles, CA
Lost Mountain Center for the Guitar, Carlsborg, WA
Louise Enrichment Group Home, Inc., Louise, TX
Love Inc. of South Sacramento County, Elk Grove, CA
Lowcountry Releaf Inc., Charleston, SC
Lutheran Young Adults of Texas, Austin, TX
Maine for Me Scholarships, Bangor, ME
Moses Lake Alano Club Foundation, Moses Lake, WA
Mother Lode Ombudsman, Inc., Sonora, CA
Motion Dance Troupe, Charlotte, NC
Mountain Recovery Home for Women, Crestline, CA
Mountains Education Program, Pacific Palisades, CA
Mount Hamilton Athletic League, San Jose, CA
Northwest Environmental Protection Association, Seattle, WA
Northwest Viking Softball Boosters of Guilford County North Carolina, Greensboro, NC
100th Street Concerts Association Incorporated, New York, NY
Owen Frost Ministries, Nyssa, OR

Oxford Recovery Club of Washington Inc., Silver Spring, MD
Peers Unlimited Inc., Columbus, OH
Project Lift Incorporated, Coronado, CA
Project Tiny Tim Fund, Spokane, WA
PTA Washington—Glenwood Elementary, Tacoma, WA
PTA Washington—Harmony Elementary PTA 3-6-11, Tacoma, WA
Rainbow Theatre, Inc., Stamford, CT
Soldier Ministries, Inc., Springville, AL
Students Dictionary Foundation Inc., Bloomington, IL
Sunrise of Tennessee, Inc., Nashville, TN
Upstate Prison Ministries, Inc., Pottersville, NY
Wisconsin Visual Arts Ltd., Milwaukee, WI
Your Family and Mine Foundation, Phoenix, AZ

If an organization listed above submits information that warrants the renewal of its classification as a public charity or as a private operating foundation, the Internal Revenue Service will issue a ruling or determination letter with the revised classification as to foundation status. Grantors and contributors may thereafter rely upon such ruling or determination letter as provided in section 1.509(a)-7 of the Income Tax Regulations. It is not the practice of the Service to announce such revised classification of foundation status in the Internal Revenue Bulletin.

Requirements Respecting the Adoption of Change of Accounting Method; Extensions of Time To Make Elections; Correction

Announcement 97-59

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulations.

Summary: This document contains corrections to the temporary regulations (T.D. 8719 [1997-23 I.R.B. 4]) which were published in the *Federal Register* for Thursday, May 15, 1997 (62 FR 26740). The regulations relate to the procedure for requesting a change in accounting method and the standards for granting an extension of time to request a change in accounting method. The regulations provide for a longer period

of time for filing an application for change in accounting method with the Commissioner.

EFFECTIVE DATE: May 15, 1997.

FOR FURTHER INFORMATION CONTACT: Cheryl L. Oseekey at (202) 622-4970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this correction are under section 446 of the Internal Revenue Code.

Need for Correction

As published, the temporary regulations contain two errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations which are the subject of FR Doc. 97-12514 is corrected as follows:

§ 1.446-1T [Corrected]

Paragraph 1. On page 26741, column 1, § 1.446-1T, paragraph (e)(3)(i)(B) is corrected to read as follows:

* * * * *

(e) * * *

(3) * * *

(i) * * *

(B) For any form 3115 filed on or after May 15, 1997, to secure the Commissioner's consent to a taxpayer's change in method of accounting the taxpayer must file the Form 3115 with the Commissioner during the taxable year in which the taxpayer desires to make the change in method of accounting.

* * * * *

§ 601.204T [Corrected]

Par. 2. On page 26741, column 2,

§ 601.204T, paragraph (b)(2) is corrected by removing the last sentence.

Dale D. Goode,
Federal Register Liaison Officer
Ass't Chief Counsel (Corporate).

(Filed by the Office of the Federal Register on May 23, 1997, 8:45 a.m., and published in the issue of the Federal Register for May 27, 1997, 62 F.R. 28630)

Telephone Numbers on Substitute Statements to Recipients—Forms W-2G, 1098, and 1099

Announcement 97-60

The 1997 Instructions for Forms 1099, 1098, 5498, and W-2G indicate that payors should include on statements to recipients the telephone number of a person to contact. On the official Internal Revenue Service forms, this number is included in the filer name and address area on statements to recipients. However, on substitute forms, payors are permitted to include the telephone number in any conspicuous place on the statements.

Announcement of the Disbarment, Suspension, or Consent to Voluntary Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under 31 Code of Federal Regulations, Part 10, an attorney, certified public accountant, enrolled agent, or enrolled actuary, in order to avoid the institution or conclusion of a proceeding for his disbarment or suspension from practice before the Internal Revenue Service, may offer his consent to suspension from such practice. The Director of Practice, in his discretion, may suspend an attorney, certified public accountant, enrolled agent, or enrolled actuary in accordance with the consent offered.

Attorneys, certified public accountants, enrolled agents, and enrolled actuaries are prohibited in any Internal Revenue

Service matter from directly or indirectly employing, accepting assistance from, being employed by or sharing fees with, any practitioner disbarred or suspended from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents, and enrolled actuaries to identify practitioners under consent suspension from practice before the Internal Revenue Service, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public

accountant, enrolled agent, or enrolled actuary and date or period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks or for as many weeks as is practicable for each attorney, certified public accountant, enrolled agent, or enrolled actuary so suspended and will be consolidated and published in the Cumulative Bulletin.

The following individuals have been placed under consent suspension from practice before the Internal Revenue Service:

Name	Address	Designation	Date of Suspension
Bert Jr., Earol L.	Severna Park, MD	CPA	February 1, 1997 to July 31, 1997
Bernard, Lucius P.	Corte Medera, CA	Attorney	March 10, 1997 to March 9, 2000
Parker, David A.	Willmar, MN	CPA	April 13, 1997 to April 12, 2000
Sheldon, Donald	Nashville, TN	CPA	April 24, 1997 to September 23, 1997
Grandt, Lawrence E.	Barrington, IL	CPA	April 24, 1997 to January 23, 1998
Reese, Rex E.	Alexandria, VA	Attorney	May 1, 1997 to April 30, 1999
Glasl, John E.	Emporium, PA	CPA	May 1, 1997 to September 30, 1997
Coulter, Diane E.	Monroeville, PA	CPA	May 1, 1997 to April 30, 1998
Groves, J. Randall	Matthews, NC	Attorney	May 1, 1997 to October 31, 1998
Lupiloff, Steven	Bloomfield, MI	Attorney	Indefinite from May 6, 1997
Wilson, Robert L.	Spring Hill, FL	CPA	May 7, 1997 to October 6, 1998
Sloop, Wayne F.	Winston-Salem, NC	CPA	Indefinite from May 7, 1997
Wilnewic, Mark V.	Crystal Lake, IL	CPA	May 8, 1997 to November 7, 1997
Lenihan, Michael	Cincinnati, OH	CPA	May 14, 1997 to July 13, 1997
Bergmann, Frederick	Tampa, FL	CPA	June 1, 1997 to May 30, 1999
Farmer, Craig	Arlington Hghts, IL	CPA	June 1, 1997 to August 31, 1997
Denny, Richard	Pine Bluff, AR	CPA	June 1, 1997 to July 31, 1997

Announcement of the Expedited Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under title 31 of the Code of Federal Regulations, section 10.76, the Director of Practice is authorized to immediately suspend from practice before the Internal Revenue Service any practitioner who, within five years, from the date the expedited proceeding is instituted, (1) has had a license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause; or (2) has been convicted of any crime under title 26 of the United States Code or, of a felony under title 18 of the United States Code involving dishonesty or breach of trust.

Attorneys, certified public accountants, enrolled agents, and enrolled actu-

aries are prohibited in any Internal Revenue Service matter from directly or indirectly employing, accepting assistance from, being employed by, or sharing fees with, any practitioner disbarred or suspended from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents, and enrolled actuaries to identify practitioners under expedited suspension from practice before the Internal Revenue Service, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public

accountant, enrolled agent, or enrolled actuary, and date or period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks or for as many weeks as is practicable for each attorney, certified public accountant, enrolled agent, or enrolled actuary so suspended and will be consolidated and published in the Cumulative Bulletin.

The following individuals have been placed under suspension from practice before the Internal Revenue Service by virtue of the expedited proceeding provisions of the applicable regulations:

Name	Address	Designation	Date of Suspension
Dally, Candace L.	Winston-Salem, NC	CPA	Indefinite from April 16, 1997
Mellor, Gary D.	Norton, KS	Attorney	Indefinite from April 16, 1997
Gottesman, Milton	New York, NY	CPA	Indefinite from April 16, 1997
Wiener, James	Germantown, NY	Attorney	Indefinite from April 16, 1997
Lunblad, Gerald	Sacramento, CA	CPA	Indefinite from April 16, 1997
Driscoll, Robert J.	Denver, CO	Attorney	Indefinite from April 16, 1997
Alico, Kenneth N.	Orchard Park, NY	CPA	Indefinite from April 16, 1997
Mack, Roland G.	Hyattsville, MD	CPA	Indefinite from May 1, 1997

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A and B, the prior ruling

is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does

more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.

Acq.—Acquiescence.

B—Individual.

BE—Beneficiary.

BK—Bank.

B.T.A.—Board of Tax Appeals.

C.—Individual.

C.B.—Cumulative Bulletin.

CFR—Code of Federal Regulations.

CI—City.

COOP—Cooperative.

Ct.D.—Court Decision.

CY—County.

D—Decedent.

DC—Dummy Corporation.

DE—Donee.

Del. Order—Delegation Order.

DISC—Domestic International Sales Corporation.

DR—Donor.

E—Estate.

EE—Employee.

E.O.—Executive Order.

ER—Employer.

ERISA—Employee Retirement Income Security Act.

EX—Executor.

F—Fiduciary.

FC—Foreign Country.

FICA—Federal Insurance Contribution Act.

FISC—Foreign International Sales Company.

FPH—Foreign Personal Holding Company.

FR—Federal Register.

FUTA—Federal Unemployment Tax Act.

FX—Foreign Corporation.

G.C.M.—Chief Counsel's Memorandum.

GE—Grantee.

GP—General Partner.

GR—Grantor.

IC—Insurance Company.

I.R.B.—Internal Revenue Bulletin.

LE—Lessee.

LP—Limited Partner.

LR—Lessor.

M—Minor.

Nonacq.—Nonacquiescence.

O—Organization.

P—Parent Corporation.

PHC—Personal Holding Company.

PO—Possession of the U.S.

PR—Partner.

PRS—Partnership.

PTE—Prohibited Transaction Exemption.

Pub. L.—Public Law.

REIT—Real Estate Investment Trust.

Rev. Proc.—Revenue Procedure.

Rev. Rul.—Revenue Ruling.

S—Subsidiary.

S.P.R.—Statements of Procedural Rules.

Stat.—Statutes at Large.

T—Target Corporation.

T.C.—Tax Court.

T.D.—Treasury Decision.

TFE—Transferee.

TFR—Transferor.

T.I.R.—Technical Information Release.

TP—Taxpayer.

TR—Trust.

TT—Trustee.

U.S.C.—United States Code.

X—Corporation.

Y—Corporation.

Z—Corporation.

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¹A cumulative list of all Revenue Rulings, Revenue Procedures, Treasury Decisions, etc., published in Internal Revenue Bulletins 1996–27 through 1996–53 will be found in Internal Revenue Bulletin 1997–1, dated January 6, 1997.

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¹A cumulative finding list for previously published items mentioned in Internal Revenue Bulletins 1996-27 through 1996-53 will be found in Internal Revenue Bulletin 1997-1, dated January 6, 1997.

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The Introduction on page 3 describes the purpose and content of this publication. The weekly Internal Revenue Bulletin is sold on a yearly subscription basis by the Superintendent of Documents. Current subscribers are notified by the Superintendent of Documents when their subscriptions must be renewed.

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